

#### § 1.507-4

507(a)(2) rather than section 507(b)(2). For example, X, a private nonoperating foundation, transfers all of its net assets to Y, a private operating foundation, in 1971. X does not file the notice referred to in section 507(a)(1) and the transfer does not constitute either a willful and flagrant act (or failure to act), or one of a series of willful repeated acts (or failures to act), giving rise to liability for tax under chapter 42. Under these circumstances, the transfer is described in section 507(b)(2) and the provisions of paragraph (a) of this section apply with respect to Y. The private foundation status of X has not been terminated under section 507(a).

(e) *Transfers to certain section 509(a) (1), (2), or (3) organizations.* If a private foundation transfers all or part of its assets to one or more organizations described in section 509(a) (1), (2), or (3) and, within a period of 3 years from the date of such transfers, one or more of the transferee organizations lose their section 509(a) (1), (2), or (3) status and become private foundations, then for purposes of this section, a transfer of assets within the meaning of paragraph (c) of this section to such an organization which becomes a private foundation will be treated as a transfer described in section 507(b)(2), and the provisions of paragraph (a) of this section shall be treated as applying to such a transferee organization from the date on which any such transfer was made to it.

(f) *Certain transfers made during section 507(b)(1)(B) terminations.* If:

(1) During the course of the 12-month or 60-month period described in section 507(b)(1)(B), a private foundation makes one or more transfers to one or more private foundations;

(2) Such transfers are described in § 1.507-3(c)(1); and

(3) Even though the transferor foundation thereafter meets the requirements of section 507(b)(1)(B)

then for purposes of this section, the provisions of § 1.507-2(e) shall not apply with respect to such transfers, and such transfers will be treated as transfers described in section 507(b)(2) and § 1.507-3 rather than as transfers from

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an organization described in section 509(a) (1), (2), or (3).

[T.D. 7233, 37 FR 28158, Dec. 21, 1972; 38 FR 3189, Feb. 2, 1973, as amended by T.D. 7678, 45 FR 12415, Feb. 26, 1980]

#### § 1.507-4 Imposition of tax.

(a) *General rule.* Section 507(c) imposes on each organization the private foundation status of which is terminated under section 507(a) a tax equal to the lower of:

(1) The amount which such organization substantiates by adequate records (or other corroborating evidence which may be required by the Commissioner) as the aggregate tax benefit (as defined in section 507(d)) resulting from the section 501(c)(3) status of such organization, or

(2) The value of the net assets of such organization.

(b) *Transfers not subject to section 507(c).* Private foundations which make transfers described in section 507(b)(1)(A) or (2) are not subject to the tax imposed under section 507(c) with respect to such transfers unless the provisions of section 507(a) become applicable. See §§ 1.507-1(b), 1.507-2(a)(6) and 1.507-3(d).

[T.D. 7233, 37 FR 28161, Dec. 21, 1972]

#### § 1.507-5 Aggregate tax benefit; in general.

(a) *General rule.* For purposes of section 507(c)(1), the aggregate tax benefit resulting from the section 501(c)(3) status of any private foundation is the sum of:

(1) The aggregate increases in tax under chapters 1, 11, and 12 (or the corresponding provisions of prior law) which would have been imposed with respect to all substantial contributors to the foundation if deductions for all contributions made by such contributors to the foundation after February 28, 1913, had been disallowed,

(2) The aggregate increases in tax under chapter 1 (or the corresponding provisions of prior law) which would have been imposed with respect to the income of the private foundation for taxable years beginning after December 31, 1912, if (i) it had not been exempt from tax under section 501(a) (or the corresponding provisions of prior

law), and (ii) in the case of a trust, deductions under section 642(c) (or the corresponding provisions of prior law) had been limited to 20 percent of the taxable income of the trust (computed without the benefit of section 642(c) but with the benefit of section 170(b)(1)(A)),

(3) The amount succeeded to from transferors under § 1.507-3(a) and section 507(b)(2), and

(4) Interest on the increases in tax determined under subparagraphs (1), (2), and (3) of this paragraph from the first date on which each such increase would have been due and payable to the date on which the organization ceases to be a private foundation.

(b) *Contributions.* In computing the amount of the aggregate increases in tax under subparagraph (1) of this paragraph, all deductions attributable to a particular contribution shall be included. For example, if a substantial contributor has taken deductions under sections 170 and 2522 (or the corresponding provisions of prior law) with respect to the same contribution, the amount of each deduction shall be included in the computations under section 507(d)(1)(A). Accordingly, the aggregate tax benefit may exceed the fair market value of the property transferred.

[T.D. 7233, 37 FR 28161, Dec. 21, 1972]

#### § 1.507-6 Substantial contributor defined.

(a) *Definition*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, the term *substantial contributor* means, with respect to a private foundation, any person (within the meaning of section 7701(a)(1)), whether or not exempt from taxation under section 501(a), who contributed or bequeathed an aggregate amount of more than \$5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the private foundation before the close of the taxable year of the private foundation in which a contribution or bequest is received by the foundation from such person. In the case of a trust, the term *substantial contributor* also means the creator of the trust. Such term does not include a govern-

mental unit described in section 170(c)(1).

(2) *Special rules.* For purposes of sections 170(b)(1)(E)(iii), 507(d)(1), 508(d), 509(a) (1) and (3), and chapter 42, the term *substantial contributor* shall not include an organization which is described in section 509(a) (1), (2), or (3) or any other organization which is wholly owned by such section 509(a) (1), (2), or (3) organization. Furthermore, taking section 4941 (relating to taxes on self-dealing) in context, it would unduly restrict the activities of private foundations if the term *substantial contributor* were to include any section 501(c)(3) organizations. It was not intended, for example, that a large grant for charitable purposes from one private foundation to another would forever preclude the latter from making any grants to, or otherwise dealing with, the former. Accordingly, for purposes of section 4941 only, the term *substantial contributor* shall not only include any organization which is described in section 501(c)(3) (other than an organization described in section 509(a)(4)).

(b) *Determination of substantial contributor*—(1) *In general.* In determining under paragraph (a) of this section whether the aggregate of contributions and bequests from a person exceeds 2 percent of the total contributions and bequests received by a private foundation, both the total of such amounts received by the private foundation, and the aggregate of such amounts contributed and bequeathed by such person, shall be determined as of the last day of each taxable year commencing with the first taxable year ending after October 9, 1969. Generally, under section 507(d)(2) and this section, except for purposes of valuation under section 507(d)(2)(B)(i), all contributions and bequests made before October 9, 1969, are deemed to have been made on October 9, 1969. For purposes of section 509(a)(2) and the support test described in § 1.509(a)-3(c), contributions and bequests before October 9, 1969, will be taken into account in the year when actually made. For example, in the case of a contribution or bequest of \$6,000 in 1967, such contribution or bequest shall be treated as made by a substantial contributor in 1967 for purposes of section 509(a)(2) and § 1.509(a)-